

MICHAEL R. BROOKS, ESQ.
Nevada Bar No. 7287
SCOTT D. FLEMING, ESQ.
Nevada Bar No. 5638
KOLESAR & LEATHAM
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Telephone: (702) 362-7800
Facsimile: (702) 362-9472
E-Mail: mbrooks@klnevada.com
sfleming@klnevada.com

Attorneys for Plaintiff DITECH FINANCIAL
LLC and THE BANK OF NEW YORK
MELLON CORPORATION as Trustee for the
Certificateholders of the CWABS, Inc. Asset-
backed Certificates Series 2005-17

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

DITECH FINANCIAL LLC,

Plaintiff,

vs.

SFR INVESTMENTS POOL I, LLC;
BOULDER RANCH MASTER
ASSOCIATION; TWILIGHT
HOMEOWNERS ASSOCIATION;
HOMEOWNERS ASSOCIATION SERVICES,
INC.; HARMESH SINGH; KULJIT KAUR;
DOES 1-20, Inclusive,

Defendants.

SFR INVESTMENTS POOL 1, LLC,

Counterclaimant,

vs.

DITECH FINANCIAL, LLC,

Counter-Defendant.

CASE NO. 2:16-cv-00127-GMN-NJK

**STIPULATION AND ORDER TO
DISMISS WITH PREJUDICE ALL
CLAIMS BY DITECH FINANCIAL,
LLC AGAINST TWILIGHT
HOMEOWNERS ASSOCIATION**

1 SFR INVESTMENTS POOL 1, LLC,

2 Cross-Claimant,

3 vs.

4 DITECH FINANCIAL LLC; BANK OF NEW
 5 YORK MELLON, FKA THE BANK OF NEW
 6 YORK as Trustee for the
 7 CERTIFICATEHOLDERS CWABS, INC.,
 8 ALTERNATIVE LOAN TRUST 2005-J12
 9 ASSET-BACKED CERTIFICATES SERIES
 10 2005-17; HOUSEHOLD FINANCE REALTY
 11 CORPORATION OF NEVADA; HARMESH
 12 SINGH, an individual; and KULJIT KAUR, an
 13 individual,

14 Cross-Defendants.

15 This *Stipulation to Dismiss With Prejudice All Claims by Ditech Financial, LLC Against*
 16 *Twilight Homeowners Association* (the “Stipulation”) is made by and among Plaintiff/Counter-
 17 Defendant/Cross-Defendant Ditech Financial, LLC (“Ditech”), Cross-Defendant The Bank of
 18 New York Mellon Corporation as Trustee for the Certificateholders of the CWABS, Inc. Asset-
 19 backed Certificates Series 2005-17 (“BONY Mellon” and with Ditech, “Lenders”), and
 20 Defendant Twilight Homeowners Association (“Twilight HOA”), and is based on the following
 21 facts:

22 RECITALS

23 1. On January 22, 2016, Ditech commenced this action by filing its *Complaint for*
 24 *Declaratory Relief and Quiet Title to Real Property* [ECF No. 1] (the “Complaint”) naming as
 25 Defendants SFR Investments Pool 1, LLC (“SFR”), Boulder Ranch Master Association
 26 (“Boulder Ranch”), Twilight HOA, Homeowners Association Services, Inc. (“HAS”), Harmesh
 27 Singh (“Singh”) and Kuljit Kaur (“Kaur”).

28 2. In its Complaint, Ditech alleged, among other things, that as a result of a series of
 assignments, Ditech was the beneficiary of a certain deed of trust (the “Deed of Trust”) recorded
 in the Clark County Recorder’s Office, Clark County, Nevada, as Instrument No. 20051130-
 0005884, naming Countrywide Home Loans, Inc. (“Countrywide”) as the lender and Mortgage
 Electronic Registration Systems, Inc. (“MERS”) as the beneficiary.

KOLESAR & LEATHAM
 400 S. Rampart Boulevard, Suite 400
 Las Vegas, Nevada 89145
 TEL: (702) 362-7800 / FAX: (702) 362-9472

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
TEL: (702) 362-7800 / FAX: (702) 362-9472

1 **3.** The Deed of Trust encumbers certain real property commonly described as 5929
2 Crumbling Ridge, Henderson, Nevada 89011 (“Property”).

3 **4.** The Deed of Trust secures a promissory note (“Note”) signed by Harmesh Singh
4 and Kuljit Kaur, husband and wife as joint tenants (“Borrowers”), on November 22, 2005, stating
5 that Borrowers owe Countrywide \$276,250.00 plus interest.

6 **5.** The Property is located in a common-interest community in which Boulder Ranch
7 is the master association and Twilight HOA is a sub-association.

8 **6.** On or about July 7, 2009, HAS, acting as collection agent for Boulder Ranch
9 HOA, recorded a *Notice of Claim of Lien-Homeowner Assessment* (the “Boulder Ranch Lien”)
10 against the Property in the Clark County Recorder’s Office, Clark County, Nevada, as Instrument
11 No. 200907070001893.

12 **7.** On or about October 21, 2009, HAS, acting as collection agent for Boulder
13 Ranch, recorded a *Notice of Default and Election to Sell* in the Clark County Recorder’s Office,
14 Clark County, Nevada, as Instrument No. 200910210001899.

15 **8.** On or about July 24, 2012, HAS, acting as collection agent for Twilight HOA,
16 recorded a *Notice of Claim of Lien-Homeowner Assessment* (the "Twilight Lien") against the
17 Property in the Clark County Recorder’s Office, Clark County, Nevada, as Instrument No.
18 201207240001224.

19 **9.** On or about February 24, 2014, HAS, acting as collection agent for Boulder
20 Ranch, recorded a *Notice of Sale* in the Clark County Recorder’s Office, Clark County, Nevada,
21 as Instrument No. 201402240001318, scheduling a foreclosure sale of the Property to occur on
22 March 13, 2014.

23 **10.** On July 10, 2014, HAS, as designated agent of Boulder Ranch HOA, executed a
24 certain *Foreclosure Deed Upon Sale* (the “Foreclosure Deed”) conveying an interest in the
25 Property, without covenant, or warranty, to SFR. The Foreclosure Deed was recorded on August
26 14, 2014 as Instrument No. 201408140001068.

27 / / /

28 / / /

KOLESAR & LEATHAM
 400 S. Rampart Boulevard, Suite 400
 Las Vegas, Nevada 89145
 TEL: (702) 362-7800 / FAX: (702) 362-9472

11. The Foreclosure Deed recites that a sale occurred on July 10, 2014 and that the grantee, SFR, acquired the Property “for \$21,000 cash, lawful money of the United States, in full satisfaction of the indebtedness secured by Grantor’s lien.”

12. A portion of the proceeds from the sale of the Property to SFR may have been used to satisfy the amounts due under the Twilight Lien; however, to the extent Twilight HOA may be entitled to any portion of the proceeds from the sale of the Property to SFR, the HOA waives all such entitlement.

13. In its Complaint, Ditech asserted the following claims for relief:

- a. Declaratory Relief against all Defendants. Ditech sought, among other things, a declaration regarding the “parties’ respective interests in the Property.”
- b. Quiet Title against SFR and Twilight HOA. Ditech sought “judgment quieting title to the Property in the Plaintiff’s favor.”
- c. Accounting against Boulder Ranch, Twilight HOA and HAS. Ditech sought “an accounting of the disposition of all sums received from the sale of the Property.”

14. Twilight HOA acknowledges and agrees that as a result of the non-judicial foreclosure by Boulder Ranch, all of its interests in the Property regarding the Twilight Lien were extinguished and that as of the date of this Stipulation, Twilight HOA disclaims any interest in the Property other than its ongoing rights under Nevada law, including NRS 116, and the governing documents, including the Covenants, Conditions and Restrictions (“CC&Rs”).

15. Lenders and Twilight HOA have agreed, in light of Twilight HOA’s acknowledgment that it holds no further interest in the Property, to dismiss all claims against one another, with prejudice.

STIPULATION AND AGREEMENT

Based on the foregoing Recitals, Lenders and Twilight HOA (the “Parties”) stipulate and agree as follows:

A. The Parties jointly request entry by this Court of an order dismissing this action with prejudice as set forth below.

B. The Parties shall each bear their own attorneys' fees and costs.

C. The dismissal of Twilight HOA as a party shall not affect the rights or arguments that may be presented by the remaining Parties during any trial in this matter, all of which are expressly reserved.

D. Depositions of Twilight HOA's employees, officers and agents may be used at the time of trial pursuant to Fed. R. Civ. P. 32 even though Twilight HOA is hereby dismissed as an "adverse party."

Dated: April 2, 2018

Dated: April 2, 2018

KOLESAR & LEATHAM

LIPSON, NEILSON, COLE, SELTZER & GARIN, P.C.

/s/ Scott D. Fleming, Esq.
MICHAEL R. BROOKS, ESQ.
Nevada Bar No. 7287
SCOTT D. FLEMING, ESQ.
Nevada Bar No. 5638
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

/s/ Amber M. Williams, Esq.
JOSEPH P. GARIN, ESQ.
Nevada Bar No. 6653
J. WILLIAM EBERT, ESQ.
Nevada Bar No. 2697
AMBER M. WILLIAMS, ESQ.
Nevada Bar No. 12301
9900 Covington Cross Drive, Suite 120
Las Vegas, NV 89144

Attorneys for Plaintiff DITECH FINANCIAL LLC and THE BANK OF NEW YORK MELLON CORPORATION as Trustee for the Certificateholders of the CWABS, Inc. Asset-backed Certificates Series 2005-17

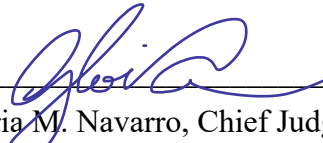
Attorneys for Defendant Twilight Homeowners Association

ORDER

Based on the parties' stipulation and good cause appearing, **IT IS HEREBY ORDERED** that Defendant Twilight Homeowners Association is **DISMISSED with prejudice**.

IT IS FURTHER ORDERED that Defendant Twilight Homeowners Association's Motions, (ECF Nos. 112, 114), are **DENIED as moot**.

Dated this 2 day of April, 2018.


Gloria M. Navarro, Chief Judge
UNITED STATES DISTRICT JUDGE